

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

**In Re:**

Luis A Poggi Fuentes  
Migdalia Milian Santiago  
xxx-xx-7621  
xxx-xx-3400

Case No.: 18-05636-MCF

18-056  
Debtor(s)

Chapter 13

**TRUSTEE'S OBJECTION TO CLAIMED EXEMPTION**

TO THE HONORABLE COURT:

**NOW COMES** José R. Carrión, Chapter 13 Trustee, through the undersigned attorney, and very respectfully alleges and prays:

1. On **October 25, 2018 Docket 17**, Debtors have claimed exemption pursuant to **§522(d) (1)** in the amount of **\$47,350.00** over residence, allowing debtor(s) to claim additional exemption pursuant to **§522(d) (5)** in an amount not to exceed **\$2,500.00** over other property of the estate.

2. Notwithstanding the above, the Debtor(s) claimed exemption pursuant to **§522(d) (5)**, in the amount of **\$17,108.96** over property of the estate, therefore claiming **\$14,608.96** in excess of what he/she/they had available.

| DESCRIPTION OF PROPERTY OF THE ESTATE CLAIMED EXEMPT (COMPLETE OR PARTIALLY) | Exemption Allowed under 522(d)(1): \$23,675.00 |                |                  | Exemption Allowed under 522(d)(5) \$1,250.00 plus Excess Remaining from (d)(1) |                |                  |
|--|--|----------------|------------------|--|----------------|------------------|
|  | Amount Available                               | Amount Claimed | Remaining Excess | Amount Available   | Amount Claimed | Remaining Excess |
| Candelero Arriba Ward Humacao  | \$47,350.00                                    | \$47,350.00    | \$0.00           | \$2,500.00   | \$2,500.00     | \$0.00           |
| 1999 Ford Explorer   |  |                |                  | \$0.00   | \$1,428.00     | (\$1,428.00)     |
| 2008 Toyota FJ Cruiser   |  |                |                  | \$0.00   | \$5,242.00     | (\$6,670.00)     |
| Oriental Bank Account  |  |                |                  | \$0.00   | \$3,554.16     | (\$10,224.16)    |
| BPPR Checking Account  |  |                |                  | \$0.00   | \$1,671.06     | (\$11,895.22)    |
| BPPR Checking Account  |  |                |                  | \$0.00   | \$712.00       | (\$12,607.22)    |
| BPPR Christmas Club  |  |                |                  | \$0.00   | \$2,001.71     | (\$14,608.96)    |
|  |  |                |                  |  |                |                  |

---

|  |  |  |  |  |  |  |
|--|--|--|--|--|--|--|
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |

3. The Trustee objects to the aforementioned exemption of **\$14,608.96** claimed in excess over property of the estate.

**WHEREFORE** the Trustee respectfully prays that an order be entered denying the Debtor's claimed exemptions as set out above.

**NOTICE:** Within thirty (14) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank.P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the clerk's office of the United States Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, this motion will be deemed unopposed and may be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the court, the interest of justice requires otherwise. If you file a timely response, the court may schedule a hearing.

**CERTIFICATE OF SERVICE:** Pursuant to Bankruptcy Rule 4003(b) and Local Bankruptcy Rule 9013 (a) the undersigned Chapter 13 Trustee certifies that a copy of this motion has been served by regular US Mail on this **same date to:** the DEBTORS and to their ATTORNEY, to their respective addresses of record.

**NEGATIVE CERTIFICATION PURSUANT TO SECTION 201(B)(4) OF THE SERVICEMEN'S CIVIL RELIEF ACT OF 2003:** I hereby DECLARE UNDER PENALTY OF PERJURY that according to the attached certification(s), provided by the Department of Defense Manpower Data Center (DMDC), the Debtor(s) is (are) not in active duty or under call to active duty as a member(s) of the ARMY, NAVY, or AIR FORCES of the United States of America; the National Guard; the Public Health Service or the National Oceanic and Atmospheric Administration

In San Juan, Puerto Rico this **31<sup>st</sup>** day of October, 2018

/s/ Jose R. Carrion

**JOSE R. CARRION**

CHAPTER 13 TRUSTEES

P.O. Box 9023884

San Juan, P.R. 00902-3884

Tel (787) 977-3535

Fax (787) 977-3550

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF PUERTO RICO

IN RE:  
LUIS ANGEL POGGI FUENTES  
MIGDALIA MILIAN SANTIAGO

DEBTOR (S)

CASE NO. 18-05636-MCF

CHAPTER 13

AFFIDAVIT FOR DEFAULT JUDGEMENT  
PURSUANT TO SECTION 201(b) (4)  
OF THE SERVICEMEMBERS CIVIL RELIEF ACT OF 2003

I , Andy Manzano , clerk for the Chapter 13 & 12 Trustee's Office, declare under penalty of perjury, the following:

That according to the enclosed certification, provided by the Department of Defense Manpower Data Center (DMDC), the Debtor(s) is (are) not in active duty or under call to active duty as a member(s) of the Army, Navy or Air Forces of the United States of America; the National Guard; the Public Health Service or the National Oceanic and Atmospheric Administration.

To certify the above statement I sign this affidavit,

In San Juan, Puerto Rico, October 31, 2018.



---



## Status Report Pursuant to Servicemembers Civil Relief Act

SSN: XXX-XX-7621  
 Birth Date:  
 Last Name: POGGI FUENTES  
 First Name: LUIS  
 Middle Name: A  
 Status As Of: Oct-30-2018  
 Certificate ID: KDRSH1DBP5Y89BT

| On Active Duty On Active Duty Status Date   |                      |        |                   |
|---|----------------------|--------|-------------------|
| Active Duty Start Date  | Active Duty End Date | Status | Service Component |
| NA  | NA                   | No     | NA                |
| This response reflects the individuals' active duty status based on the Active Duty Status Date |                      |        |                   |

| Left Active Duty Within 367 Days of Active Duty Status Date   |                      |        |                   |
|---|----------------------|--------|-------------------|
| Active Duty Start Date  | Active Duty End Date | Status | Service Component |
| NA  | NA                   | No     | NA                |
| This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date |                      |        |                   |

| The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date                   |                             |        |                   |
|---|-----------------------------|--------|-------------------|
| Order Notification Start Date   | Order Notification End Date | Status | Service Component |
| NA  | NA                          | No     | NA                |
| This response reflects whether the individual or his/her unit has received early notification to report for active duty |                             |        |                   |

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

Michael V. Sorrento, Director  
 Department of Defense - Manpower Data Center  
 400 Gigling Rd.  
 Seaside, CA 93955

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. ? 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service. Service contact information can be found on the SCRA website's FAQ page (Q33) via this URL: <https://scra.dmdc.osd.mil/faq.xhtml#Q33>. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. ? 521(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

## More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC ? 101(d) (1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC ? 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

## Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC ? 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected

**WARNING:** This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.



## Status Report Pursuant to Servicemembers Civil Relief Act

SSN: XXX-XX-3400  
 Birth Date:  
 Last Name: MILIAN SANTIAGO  
 First Name: MIGDALIA  
 Middle Name: A  
 Status As Of: Oct-30-2018  
 Certificate ID: V2TPYXQ5PJ0LF91

| On Active Duty On Active Duty Status Date   |                      |        |                   |
|---|----------------------|--------|-------------------|
| Active Duty Start Date  | Active Duty End Date | Status | Service Component |
| NA  | NA                   | No     | NA                |
| This response reflects the individuals' active duty status based on the Active Duty Status Date |                      |        |                   |

| Left Active Duty Within 367 Days of Active Duty Status Date   |                      |        |                   |
|---|----------------------|--------|-------------------|
| Active Duty Start Date  | Active Duty End Date | Status | Service Component |
| NA  | NA                   | No     | NA                |
| This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date |                      |        |                   |

| The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date                   |                             |        |                   |
|---|-----------------------------|--------|-------------------|
| Order Notification Start Date   | Order Notification End Date | Status | Service Component |
| NA  | NA                          | No     | NA                |
| This response reflects whether the individual or his/her unit has received early notification to report for active duty |                             |        |                   |

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

Michael V. Sorrento, Director  
 Department of Defense - Manpower Data Center  
 400 Gigling Rd.  
 Seaside, CA 93955

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. ? 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service. Service contact information can be found on the SCRA website's FAQ page (Q33) via this URL: <https://scra.dmdc.osd.mil/faq.xhtml#Q33>. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. ? 521(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

## More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC ? 101(d) (1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC ? 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

## Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC ? 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected

**WARNING:** This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.



18-05636-MCF

Document Page 9 of 9

## CERTIFICATE OF MAILING

The undersigned hereby certifies that a true copy of the foregoing document was mailed by first class mail to the parties listed below:

JOSE R. CARRION  
PO BOX 9023884, OLD SAN JUAN STATION  
SAN JUAN, PR 00902

MARIA DE LOS ANGELES GONZALEZ, ESQ.  
US POST OFFICE & COURTHOUSE  
300 RECINTO SUR ST., SUITE 109  
OLD SAN JUAN, PR 00901

ROBERTO FIGUEROA CARRASQUILLO\*  
PO BOX 186  
CAGUAS, PR 00726-0186

DEPARTMENT OF TREASURY  
PO BOX 9024140  
SAN JUAN, PR 00902

UNEMPLOYMENT INSURANCE  
PUERTO RICO DEPT OF LABOR  
12 FLOOR 505 MUNOZ RIVERA AVE.

LUIS ANGEL POGGI FUENTES  
PO BOX 116  
YABUCOA, PR 00767

ALEJANDRO BELLVER ESPINOSA ESQ.  
BUFETE BELLVER ESPINOSA COND EL CENTRO  
500 AVE MUNOZ RIVERA STE 801  
SAN JUAN,, PR 00918-3331

BANCO POPULAR DE PR  
C/O MIGDALIA EFFIE GUASP ESQ  
PO BOX 362708  
SAN JUAN, PR 00936-2708

BANCO POPULAR DE PUERTO RICO  
C/O EDUARDO M VERAY LOPEZ ESQ  
BANCO POPULAR PR SPECIAL LOANS  
PO BOX 362708

BANCO POPULAR DE PUERTO RICO  
PO BOX 362708  
SAN JUAN,, PR 00936-2708

BANCO POPULAR DE PUERTO RICO  
PO BOX 71375  
SAN JUAN,, PR 00936-8475

EASTERN AMERICA INSURANCE COMPANY  
PO BOX 9023862  
SAN JUAN, PR 00902

FEDLOAN  
PO BOX 60610  
HARRISBURG,, PA 17106-0610

MIGDALIA MILIAN SANTIAGO  
PO BOX 116  
YABUCOA, PR 00767

ROBERTO FIGUEROA CARRASQUILLO  
PO BOX 186  
CAGUAS,, PR 00726-0186

SEARS/CBNA  
PO BOX 6189  
SIOUX FALLS,, SD 57117-6189

WEST GATE RESORT  
2801 OLD WINTER GARDEN ROAD  
OCOE, FL 34761

DATED: October 31, 2018

Andy Manzano

OFFICE OF THE CHAPTER 13 TRUSTEE